IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE.

INCOME TAX REFERENCE NO. 470 OF 1998..

The Commissioner of Income-tax,
City-VII, Bombay. .. Applicant,
vs.
M/s Sheth Industrial Corp. . .. Respondent.

Shri A.S. Rao for the Applicant.
None for the respondent.

CORAM: V.C.DAGA &
J.P.DEVADHAR,JJ.
DATED: 22-3-2005.

P.C.

1. Heard learned Counsel for the applicant. The Tribunal has referred the questions for the opinion of this Court reading as under:

> 1. " Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in directing the I.T.O. to allow depreciation on the cost of assets held by the assessee?"
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> 2. "Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holdindg that subsidy, calculated in relation to the investment by the assessee in fixed asssets, plant & machinery etc. and received by the assessee, should be deducted from the cost of assets for allowing depreciation?"
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> 3. Whether, on the facts and in the circumstances of the case, the Tribunal has overlooked the fact that the cost of the depreciable assets to the assessee is the actual cost to the assessee, after deducting the subsidy received from the Govt.?"

2. The above questions have already been answered by

the Division Bench of this Court in the case of C.I.T. vs. P.J. Chemicals Ltd. (1994) 210 I.T.R. 830 (SC) in the affirmative i.e. in favour of the assessee and against the revenue. In this view of the matter, reference stands disposed of in terms of that judgment with no order as to costs.